

County Board of Appeals
Room 219, Court House
Towson, Maryland 21204

Dec. 9, 1981

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). ABSOLUTELY NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULING HEARING DATE IN ACCORDANCE WITH RULE 2(c), COUNTY COUNCIL BILL #178

CASE NO. 81-209-SPH ALEXIA TOMASSETTI, et al
S/S Essex Rd., 660' SW of Campfield Rd.
2nd District
SPH-Non-conforming use as a nursing home;
not to be further expanded or enlarged
8/17/81 - Z.C. GRANTED special hearing,
but may not be expanded or enlarged

ASSIGNED FOR: THURSDAY, JAN. 28, 1982, at 10 a.m.

cc: C. Victor McFarland, Esq. Counsel for Petitioners
Ms. Helen Rea Protestant
Ms. Jo Fisher Protestant
Chester Cohen, Esq. Counsel for Protestants
Alexia Tomassetti Petitioner
Frank & Helen Buck "
J. E. Dyer "
W. E. Hammond "
N. E. Gerber "
J. Hoswell "
J. Hession, Esq. "
Thomas J. Bollinger, Esq. Office of Law
June Holmen, Secy.

Nursing home operator 'retires' after 49 years

By Joel McCand
Baltimore County Bureau of The Sun

Katherine Robb's parents were convinced their daughter was too delicate for nursing, so they fought tooth and nail to keep her from entering the field. So she did the next logical thing: She opened a nursing home.

Now, after nearly 49 years of caring for the elderly in a rambling, old white frame house on Essex road in western Baltimore county, Mrs. Robb is going to let someone else care for her.

She doesn't see it exactly that way, but she is 77, has had two heart attacks in the last three years and her doctors said she would "die in her boots" if she stayed on.

"This leaving, it's the hardest part," she said last week as she sat near a window on the second floor, waiting for the movers to haul her belongings and haul them to Florida where her daughter, Katherine Dillow, lives.

"But the doctors said I had to give it up, and my daughter said, 'Mother, I want a little of you.'—she recoiled. 'It's hard to adjust to that, but I know I must.'"

The nursing home, run in what was once a resort hotel built in the 1920s, was sold to Mrs. Robb's administrator.

A tiny, proper woman who offers her hand graciously when she is introduced, Mrs. Robb smiles mischievously when she relates a promise she made her doctors.

She told them "I would behave myself" when they let her return to her apartment on the third floor of the home shortly after the second heart attack.

"But I couldn't help making inspection tours. And if I heard someone push their buzzer twice, I had to find out what was going on," she said.

When Mrs. Robb first opened a nursing home in 1932, there were no rules or regulations, no licenses and no agencies to cope with.

"I went down to City Hall to see about a license, but they said they didn't know anything about it," she said. "They said there weren't any licenses for nursing homes that they knew of."

But later, as government agencies got involved in nursing homes, she found herself spending thousands of dollars to install new plumbing and wiring, fire escapes, kitchens and extra bathrooms.

"There were times," she said, measuring her words, "when it became a financial strain, but the banks were very good to me. I always met my obligations."

In April 1979, state health department inspection form, the most recent one



KATHERINE ROBB

"... This was the best thing I could do," available, noted a number of deficiencies at the home, but they were nearly all matters of procedure and record keeping rather than physical condition of the building.

Mrs. Robb, who said she has always been around sick people, worked for a doctor who ran a sanatorium in Ellensburg, Wash., before she opened the 15-patient establishment in the Villa Nova area of Baltimore county. Her parents and husband were both infirm and she had a daughter to care for, she said.

"This was the best thing I could do," she said. "I could take care of everyone here."

She recalls having cared for relatives of senators and congressmen, the aunts of Alger Hiss (who was convicted in the early 1950s of perjury after he denied passing secret documents for delivery to a Communist spy ring) and a doctor whose patients came to the home to see her.

"She was one of the first women doctors we had, and we used to set up a room where she could see her patients a couple of days a week," Mrs. Robb said.

She said she has already told her daughter she had "better get a darn good nurse to look after" her "when she finds she can no longer take care of me, because she's going to need me."

Then Katherine Robb, the proper lady who was "too delicate" to become a nurse, smiled mischievously again and nodded toward the corner where her daughter was waiting for the movers.

PETITION FOR SPECIAL HEARING : IN THE
S/S OF ESSEX ROAD, 660' S.W. :
OF CAMPFIELD ROAD - Second : COUNTY BOARD
Election District, :
ALEXIA TOMASSETTI, et al., : OF
Petitioner's No. 81-209- :
SPH (Item No. 171) : APPEALS

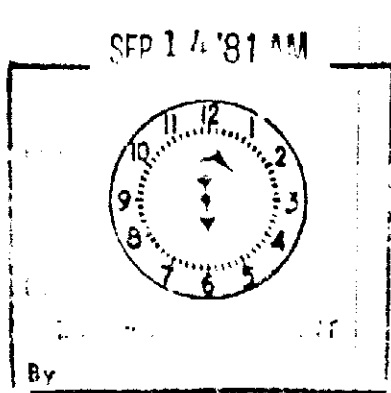
ORDER OF APPEAL

Dear Mr. Zoning Commissioner:
Please enter an appeal on behalf of the Petitioners, Alexia Tomassetti, 4105 Essex Road, Baltimore, Maryland 21207, and FRANK E. BUCK and E. HELEN BUCK, his wife, 8705 Windsor Mill Road, Baltimore, Maryland 21207, from the written decision of the Zoning Commissioner in the subject matter dated August 17, 1981, pursuant to the Charter and Local Laws of Baltimore County.

C. Victor McFarland
920 Frederick Road
Catonsville, Maryland 21228
744-0931
Attorney for the Appellants

I HEREBY CERTIFY that on this 11th day of September, 1981, a copy of the foregoing Order of Appeal and cover letter were mailed to Chester Cohen, Esquire, 7501 Liberty Road, Baltimore, Maryland 21207, Attorney for Protestants, John H. Hession, III, Esq., People's Counsel, County Office Building, Towson, Maryland 21204, Board of Appeals, Court House, Towson, Maryland 21204.

C. Victor McFarland, Esquire



THIS IS THE DEED CODE - City or County

This Deed, Made this 11th day of December, 1981, in the year one thousand nine hundred and eighty one, by and between KATHERINE A. ROBB,

of Baltimore County, in the State of Maryland, of the first part, and ALEXIA TOMASSETTI, as to a one-half interest, as tenant in common with FRANK E. BUCK and E. HELEN BUCK, as tenants by the entirety as to the remaining one-half interest, of Baltimore County, State of Maryland, of the second part.

Witnesseth, That in consideration of the sum of Eighty-five Thousand (\$85,000.00) Dollars

the said KATHERINE A. ROBB

do hereby grant and convey unto the said ALEXIA TOMASSETTI as to a one-half interest as tenant in common with FRANK E. BUCK and E. HELEN BUCK, his wife, as tenants by the entirety as to the remaining one-half interest, their personal representatives-----

and assigns, in fee simple, all those lots of ground, situate, lying and being in Baltimore County, Maryland, aforesaid, and described as follows, that is to say:

BEING NOW AND DESIGNATED as lots 6, 7 and 8, Section R, as shown on the plat of Villa Nova, which plat is duly recorded among the Land Records of Baltimore County in Liber W.P.C. No. 3, folio 76, BEING known as 4105 Essex Road.

BEING the same lots of ground which were acquired by the grantor as follows:

1. Deed dated November 28, 1951 and recorded among the Land Records of Baltimore County in Liber G.L.B. No. 2046, folio 390 from Albert F. Metzger and Margaret M. Metzger, his wife, to Katherine A. Robb.
2. Deed dated June 17, 1964 and recorded among the Land Records of Baltimore County in Liber R.R.G. No. 4313 folio 599 from Franel Properties, Inc. to Katherine Robb for life with full powers and remainder to Katherine Mary Dillow, (dau. of Robb).
3. Deed dated April 5, 1969 and recorded among the Land Records of Baltimore County in Liber O.T.G. No. 4983 folio 468 from Walter Dillow and Katherine M. Dillow, his wife, to Katherine A. Robb.

PETITIONER'S
EXHIBIT 2

RE: PETITION FOR SPECIAL HEARING : BEFORE THE
S/S OF ESSEX ROAD, 660' SW of Camp- : ZONING COMMISSIONER
field Road - 2nd Election District :
Alexia Tomassetti, et al - Petitioners : OF
NO. 81-109-SPH (Item No. 171) : BALTIMORE COUNTY

Pursuant to the advertisement, posting of property, and public hearing on the petition and it appearing that by reason of the following finding of facts:

1. The petitioners herein seek to establish the existing nursing home, a Maryland corporation known as Katherine A. Robb Nursing Home, Inc., 4105 Essex Road, as a nonconforming use.
2. Petitioners' Exhibit 3, consisting of an agreement between Katherine A. Robb, seller, and Alexia Tomassetti and Frank E. Buck and E. Helen Buck, his wife, purchasers, sets forth various and sundry provisions of the sale of the land, consisting of Lots 6, 7 and 8, Block R, plat of Villa Nova, recorded among the Land Records of Baltimore County in Plat Book W.P.C. 3, folio 76, and the business thereon.
3. In keeping with the provisions of Petitioners' Exhibit 3 and the Contract of Sale alluded to therein, a deed of conveyance of the aforementioned lots (Petitioners' Exhibit 2) was executed on December 11, 1980, and was recorded among the Land Records of Baltimore County in Liber E.H.K., Jr., 6247, folio 702. The "being clauses" indicate Katherine A. Robb acquired title to Lot 6 by deed dated November 28, 1951, from Albert F. Metzger, et ux, Lot 8 by deed dated April 5, 1969, from Katherine M. Dillow (identified as Mrs. Robb's daughter), et vir, and Lot 7 by deed dated June 17, 1964, from Franel Properties, Inc. A review of this latter deed indicates it to be a straw deed establishing a life estate with full powers in Katherine A. Robb with the remainder to Katherine Mary Dillow and further indicate Katherine A. Robb as having acquired title by deed dated January 21, 1941, from Mollie E. Bassett.
4. The specific site and the surrounding area are presently zoned Density, Residential (D.R.3.5). Properties to the north, east and west are residentially improved and the property to the south is unimproved.
5. Neither those witnesses testifying in behalf of the petitioners nor those testifying as protestants deny the existence of a nursing home on Lot 7 prior to the enactment of the Baltimore County Zoning Regulations in 1945 (Codified, 1948), but the protestants do controvert the petitioners' witnesses who testify to the use of Lots 6 and 8 as being part of the nursing home as indicated on the site plan prepared by Development Design Group, Ltd., revised March 8, 1981, and marked Petitioners' Exhibit 1.

Together with the buildings and improvements thereupon erected, made, and all and every the rights, alleys, ways, waters, privileges, appurtenances and advantages, to the same belonging, or in anywise appertaining.

To Have and To Hold the said lot of ground and premises, above described and mentioned, and hereby intended to be conveyed; together with the rights, privileges, appurtenances and advantages thereto belonging or appertaining unto and to the proper use and benefit of the said ALEXIA TOMASSETTI as to a one-half interest as tenant in common with FRANK E. BUCK and E. HELEN BUCK, his wife, as tenants by the entirety as to the remaining one-half interest, their personal representatives-----

and assigns, in fee simple.

And the said party of the first part hereby covenants that she has not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that she will warrant specially the property granted and that she will execute such further assurances of the same as may be requisite.

Witness the hand and seal of said grantor.

TEST:

KATHERINE A. ROBB (SEAL)

KATHERINE A. ROBB (SEAL)

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:
I HEREBY CERTIFY, That on this 11th day of December, 1981, in the year one thousand nine hundred and eighty one, before me, the subscriber, a Notary Public of the State of Maryland, and for the County of Baltimore, personally appeared KATHERINE A. ROBB

the above named grantor and she acknowledged the foregoing Deed to be her act.
As Witness my hand and Notarial Seal.

Notary Public.

6. A review of the 1945 zoning regulations fails to disclose, either in the definitions or in the text, any reference to a nursing or convalescent home as either a permitted use or a use permitted by way of special exception; however, in 1953, the then County Commissioners adopted amendments to Section XIII, Paragraph A, whereby five new subparagraphs were added, one of which reads as follows:

"25. Convalescent Home, Nursing Home or Orphanage".

Such uses were subject to Special Use Permits. Therefore, in view of the absence of any testimony indicating the granting of a Special Use Permit for the nursing home subsequent to the 1953 amendment, the "nonconforming footprint" was established as of the effective date of the 1945 regulations. This conclusion is predicated upon the negative context of the 1945 regulations, such as applied to residence zones, i.e., "...no building or land shall be used and no building or structure shall be hereafter erected, altered, repaired or used except for one or more of the following uses:..."

7. The 1945 zoning regulations, Section XI--Non-conforming Uses, stated, in part, "...that any such lawful non-conforming use may be extended or enlarged to an extent not more than once again the area of the land used in the original nonconforming use." In 1955, Section XI was amended to Section 104 and reads, in its pertinent part, "No nonconforming building or structure and no nonconforming use of a building, structure, or parcel of land shall hereafter be extended more than 25% of the ground floor area of buildings so used." Subsequent amendments to Section 104 in 1976 and 1980 had no effect upon this language.
8. Since Lot 7, containing the improvement in which the patients resided and in which the nursing services were performed, was acquired by Katherine A. Robb on January 21, 1941, the nursing home became a nonconforming use upon the adoption of the 1945 zoning regulations and established the area of the use to the dimensions of Lot 7, to wit, 125 feet by 250 feet. Mrs. Robb acquired Lot 6 on November 28, 1951, thereby adding to her ownership an additional lot of identical dimensions. At that time, Section XI was still in effect and allowed for the extension or enlargement "to an extent not more than once again the area of the land used in the original nonconforming use." Therefore, Lot 6 was available for the extension or enlargement of the nonconforming nursing home use established on Lot 7.
9. The general context of the testimony of the petitioners' witnesses was to the effect that Katherine A. Robb had, at one time, part of a chicken yard which supplied eggs used in the preparation of meals for patients, a garden which produced vegetables for the nursing home kitchen, and flower gardens with benches for the ambulatory patients' use on Lot 6. One witness also testified to seeing cars parking on Lot 6, which he assumed to be visitors at the nursing home. Although there were no buildings constructed on the property which would clearly denote use of this lot as a nursing home, the

TO
ALEXIA TOMASSETTI, (1/2 interest
as tenant in common with
FRANK E. BUCK and E. HELEN BUCK,
entirety as to the remaining
one-half interest

BLOCK NO. _____
Received for Record _____ 19____
at _____ o'clock _____ M. Same day recorded
in Liber _____ No. _____ folio _____ &c.,
one of the Land Records of _____
and examined per _____ Clerk.

Cost of Record, \$ _____
C. Victor McFarland, Esquire
920 Frederick Road
Catonsville, Maryland 21228
744-0931

LUCAS BOOK, INC., BALTIMORE, MD. FORM 412

DEED

KATHERINE A. ROBB

FROM

above-paraphrased testimony as to the use of Lot 6 by the owner, staff, patients and visitors would justify a conclusion that Lot 6 provided amenities to those who were patients which may not have been otherwise available. Petitioners' Exhibit 1 indicates an intention to provide three parking spaces to be located on Lots 6 and 7 and possibly five future spaces on Lot 6, as well as a driveway traversing Lot 6 to Essex Road. Since there was some testimony regarding parking on Lot 6, the parking spaces shown on Petitioners' Exhibit 1 would not constitute an extension or enlargement of the nonconforming use of Lot 6; however, the proposed use of Lot 6 for a possible future drive would constitute an extension or enlargement of the use of Lot 6 since there was no testimony to indicate it had ever been used for such purpose.

10. Lot 8, acquired by Katherine A. Robb on April 5, 1969, was conveyed to Mrs. Robb's daughter, Katherine M. Dillow, et vir, by deed dated July 22, 1946. Although there was testimony indicating the use of Lot 8 for teas and affairs by Mrs. Robb's patients and those of the Augsburg Lutheran Home, there was no testimony indicating any formal or informal arrangement for such use between Mrs. Robb and her daughter. Whether or not there was an agreement for the use of Lot 8 by Mrs. Robb, the 1945 zoning regulations precluded the use of the property as a nursing home until the adoption of the 1953 amendment. Unless it is contended that Mrs. Robb can extend a nonconforming use to property now owned by her, to give substance to the use of Lot 8 in 1946 when Mrs. Robb's daughter acquired title would mean the nonconforming use had already been extended or enlarged under Section XI of the 1945 zoning regulations and would preclude further extension to Lot 6 when it was acquired by Mrs. Robb in 1951. Assuming *arguendo* that the use of Lot 8 provided amenities to the nursing home and therefore part of the nonconforming use, such extension was not effectual in that the owner was someone other than the person claiming the nonconformance. Therefore, the testimony offered as to the uses which occurred on Lot 8 as accessory to the nursing home is irrelevant and immaterial.
11. Since the nursing home constituted a lawful nonconforming use on Lot 7 at the time of and since the adoption of the 1945 zoning regulations, the addition of Lot 6 in 1951 amounted to an extension or enlargement under Section XI of the 1945 zoning regulations, thereby precluding any further extensions in the future. This is true in that a nonconforming use by definition is inherently incompatible with the permitted uses in the zone in which it exists; and, therefore, the limitations imposed thereon are designed for ultimate cessation. To allow further expansion or enlargement under Section 104 of the zoning regulations would provide for an ultimate increase in the original nonconforming use (Lot 7) in excess of the most liberal regulation (Section XI) and would not be within the spirit and intent of either Section XI or Section 104.
12. The finding of a nonconforming use being conducted on the subject property will not adversely affect the health, safety and general welfare of the community.

and, therefore,

IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 17th day of August, 1981, that a nonconforming use as a nursing home has existed and has been conducted on Lot 7 prior to the adoption of the Baltimore County Zoning Regulations and, as such, should be and the same is hereby GRANTED the right to continue from and after the date of this Order and, further, that the addition of the use of Lot 6 constitutes the maximum expansion or enlargement of the nonconforming use in compliance with Section XI of the 1945 zoning regulations at the time of its acquisition in 1951 and, therefore, neither Lot 6 nor Lot 7 may be further expanded or enlarged, nor may the nursing home structure be increased exteriorly, subject, however, to the following restrictions:

1. No entrance, exit or driveway shall be constructed or maintained on, along or over Lot 6, but parking may be provided thereon as shown on Petitioners' Exhibit 1.
2. Lot 8 shall not be used in a manner which would constitute a part of the nursing home or any use accessory thereto.
3. Abandonment or discontinuance for a period of one year or more shall terminate the nonconforming use.
4. Damage by fire or other casualty of the improvement to the extent of 75% of its replacement cost at the time of such loss shall terminate the nonconforming use.
5. All on-site parking shall be provided in accordance with Petitioners' Exhibit 1 and shall be in compliance with Section 409.2.c(1), (2), (3) and (4) of the Baltimore County Zoning Regulations.
6. A revised site plan, incorporating the applicable restrictions set forth above, being submitted for approval by the Department of Public Works and the Office of Planning and Zoning.

Zoning Commissioner of
Baltimore County

ORDER RECEIVED FOR FILING

DATE August 17, 1981
BY [Signature]
ADMINISTRATIVE ASSISTANT

ORDER RECEIVED FOR FILING

DATE August 17, 1981
BY [Signature]
ADMINISTRATIVE ASSISTANT

TOMASSETTI - #81-209-SPH

3.

Testimony from neighbors and the Villa Nova Community Club indicated opposition to the granting of nonconforming use to Lots #6 and #8 fearing this would permit further commercialization to the existing present use. This concluded the testimony and evidence in this case.

There is no question as to the legality of the nonconforming use of Lot #7 as a nursing home. The Board is also of the opinion that Lot #8 does not meet the requirements for nonconforming use since it was not officially owned by the operators of the nursing home until 1969, long after the grandfather aspect of its use had passed. Lot #6 however, is of different posture. Lot #6 was purchased in November, 1951, which predates any specific regulations for nursing homes, but complies with the expansion limits for any nonconforming use. The Zoning Commissioner's Opinion finds that just this expansion in area concludes any further use of this plot. The Board is, however, of the opinion that merely purchase of property does not constitute actual use. Until today no improvements of any kind have been conducted or erected on this parcel. It is still totally undeveloped. The proposed driveway and parking area as shown on Petitioners' Exhibit #1 would not exceed the twenty-five percent expansion limit now imposed on nonconforming uses. The Board can find no justification that this driveway would be detrimental to the existing residences or that it would promote additional commercialization in the area. It further even indicates an improvement to the area, since it will remove parked cars from along Essex Road.

For these reasons the Board is of the opinion that the Zoning Commissioner's Order granting the nonconforming use of Lot #7 should be affirmed, but that Lot #6 be found to be a nonconforming use and thus allow the requested improvements as shown on Petitioners' Exhibit #1 and will, therefore, reverse restriction #1 in the Order of August 17, 1981 and will so order.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 9th day of June, 1982, by the County Board of Appeals, ORDERED that the Order of the Zoning Commissioner, dated August 17, 1981, granting the nonconforming use of Lot #7 as a nursing

TOMASSETTI - #81-209-SPH

4.

home be affirmed, and

IT IS FURTHER ORDERED that Restriction #1 in the Zoning Commissioner's Order dated August 17, 1981, be reversed, and that Lot #6 is hereby found to be a nonconforming use existing prior to the adoption of the Baltimore County Zoning Regulations pertaining to nursing homes and as such the Petitioners are allowed to improve the property by the installation of the driveway and visitors off street parking area as shown on Petitioners' Exhibit #1, plat prepared by Wayne E. Maisenholder, P.E., dated March 5, 1981, revised March 9, 1981, and

IT IS FURTHER ORDERED that Restrictions #2 through #6 as listed in the Order of the Zoning Commissioner, dated August 17, 1981, be and the same are hereby AFFIRMED.

Any appeal from this decision must be in accordance with Rules 8-1 thru 8-12 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

[Signature]
William F. Hackett, Chairman

[Signature]
Leroy B. Spurrer

[Signature]
Patricia Phipps

IN THE MATTER OF THE APPLICATION OF ALEXIA TOMASSETTI, ET AL FOR SPECIAL HEARING FOR APPROVAL OF A NONCONFORMING USE AS A NURSING HOME
S/S of Essex Road 660' SW of Campfield Road 2nd District

BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
No. 81-209-SPH

OPINION

This case comes before this Board on appeal from a decision of the Zoning Commissioner of Baltimore County finding that the existing use as a nursing home of Lot #7, Block R in the development known as "Villa Nova" was, in fact, a legal nonconforming use. This Order also denies any nonconforming use for Lot #8, directly abutting Lot #7 on its western side, and finds that the acquisition of Lot #6, directly abutting Lot #7 to the east, constitutes the maximum legal nonconforming use expansion of Lot #7 and, therefore, no further improvements can be accomplished on said Lot #6. Petitioners claim that all three parcels, while acquired at different times, were always used and considered part of the original nursing home and, therefore, should all enjoy original nonconforming uses. The case was heard January 28, 1982, in its entirety.

The Board will not, in this Opinion, attempt to summarize all the testimony received individually but will let the record speak for itself, and instead attempt to outline chronologically the facts and testimony presented.

In January, 1941, Mrs. Robb purchased Lot #7, Block R in the development known as Villa Nova, Petitioners' Exhibit #7, and began operating said property as a nursing home. At that time there were no zoning regulations governing nursing homes.

On July 22, 1946, Lot #8 was conveyed to Katherine Dillow from C. Braddock Jones and wife, Petitioners' Exhibit #4. Lot #8 directly abuts Lot #7, the existing nursing home use by Mrs. Robb, who is Mrs. Dillow's mother. This date also precedes any reference to nursing home zoning requirements.

Lot #6 was purchased by Mrs. Robb on November 28, 1951, Petitioners' Exhibit #6.

CERTIFICATE OF PUBLICATION

A 2806

Pikeville, Md., May 20, 1981

THIS IS TO CERTIFY, that the annexed advertisement was published in the Jeffersonian, a weekly newspaper published in Pikeville, Baltimore County, Maryland before the 9th day of June, 1981 the first publication appearing on the 20th day of May, 1981 the second publication appearing on the day of , 1981 the third publication appearing on the day of , 1981

THE NORTHWEST STAR

[Signature]
Manager

Cost of Advertisement \$32.00

LEGAL NOTICE

NOTICE OF SPECIAL HEARING FOR NON-CONFORMING USE FOR NURSING HOME

Public Hearing: Room 104, County Office Building, 111 West Chesapeake Avenue, Towson, Maryland

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the application for special hearing for nonconforming use of Lot #6, Block R, in the development known as "Villa Nova" located at the intersection of Essex Road and Campfield Road, being known and designated as Lot #6, Block R, on a plat entitled "Villa Nova" dated September 1980 and recorded among the Land Records of Baltimore County, Maryland in Lot Book W.P.C. 3, folio 76. Containing 2.15 acres of land, more or less.

Being the property of Alexia Tomassetti, et al, as shown on plat as filed with the Zoning Department.

Hearing Date: Tuesday, June 9, 1981 at 1:30 P.M.

Public Hearing: Room 104, County Office Building, 111 West Chesapeake Avenue, Towson, Maryland

By Order of: WILLIAM E. HAMMOND, Zoning Commissioner of Baltimore County

DATE & TIME: Tuesday, June 9, 1981 at 1:30 P.M.

LOCATION: Room 104, County Office Building, 111 West Chesapeake Avenue, Towson, Maryland

BY ORDER OF: WILLIAM E. HAMMOND, Zoning Commissioner of Baltimore County

TOMASSETTI - #81-209-SPH

2.

A: this juncture in time, November of 1951, we now have the following conditions:

1. Mrs. Robb is operating a legal nonconforming use of Lot #7 as a nursing home.
2. Lot #6, abutting Lot #7, has been purchased by Mrs. Robb and, by regulations passed in 1945, has become a legal extension of the use of Lot #7 since the land area of each lot is identical.
3. Lot #8, abutting Lot #7 to the west, is owned by Mrs. Dillow, who is Mrs. Robb's daughter.

In 1953, the County Commissioners adopted amendments to Section XIII, paragraph A, of the Baltimore County Zoning Regulations, whereby nursing home use thereafter would require a special use permit. Absent any testimony or evidence as to the existence at any time of any special use permit, the Board must assume that Lots 6 and 7, owned by Mrs. Robb, were grandfathered into existence as a nursing home use. Lot #8, however, being owned by Mrs. Robb's daughter, does not enjoy this classification. While there was testimony from Mr. Henry Beck that use of this lot for a vegetable garden and recreation use by residents of the nursing home was enjoyed by Mrs. Robb, it was not a part of the nursing home complex since it was not officially her property, but owned by her daughter.

On April 5, 1969, Lot #8 was deeded by Mrs. Dillow to her mother, Mrs. Robb, Petitioners' Exhibit #5. On December 11, 1980, deed to all three lots was conveyed to the Petitioners who now operate the nursing home. Petitioners' testimony was to the effect that the nonconforming use of Lot #6 was vital to their operation so that a "U" shaped driveway could be constructed on this lot to facilitate visitors parking, but more importantly that emergency vehicles, especially ambulances, could have at all times immediate access to and egress from the nursing home. With the present single dead end driveway, many times parked autos cause access to be difficult and time consuming when these vehicles must be moved.

CERTIFICATE OF PUBLICATION

TOWSON, MD., May 21, 1981

THIS IS TO CERTIFY, that the annexed advertisement was published in the JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md. before the 9th day of June, 1981, the first publication appearing on the 21st day of May, 1981.

THE JEFFERSONIAN
[Signature]
Manager

Cost of Advertisement, \$ 32.00

PETITION FOR SPECIAL HEARING

FOR NON-CONFORMING USE

LOCATION: south side of Essex Road, 660 feet Southwest of Campfield Road

DATE: Tuesday, June 9, 1981 at 1:30 P.M.

PUBLIC HEARING: Room 104, County Office Building, 111 West Chesapeake Avenue, Towson, Maryland

By Order of: WILLIAM E. HAMMOND, Zoning Commissioner of Baltimore County

DATE & TIME: Tuesday, June 9, 1981 at 1:30 P.M.

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BY ORDER OF: WILLIAM E. HAMMOND, Zoning Commissioner of Baltimore County

DATE & TIME: Tuesday, June 9, 1981 at 1:30 P.M.

LOCATION: Room 104, County Office Building, 111 West Chesapeake Avenue, Towson, Maryland

BY ORDER OF: WILLIAM E. HAMMOND, Zoning Commissioner of Baltimore County

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PETITION MAPPING PROGRESS SHEET										
FUNCTION	Wall Map		Original		Duplicate		Tracing		200 Sheet	
	date	by	date	by	date	by	date	by	date	by
Descriptions checked and outline plotted on map										
Petition number added to outline										
Denied										
Granted by ZC, BA, CC, CA										
Reviewed by: <u>MM</u>			Revised Plans:							
Previous case: <u>---</u>			Change in outline or description							

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your Petition has been received this 16 day of Mar, 1981.

Filing Fee \$ 25 Received: ☒ Check
Cash
Other

#171

William E. Hammond
William E. Hammond, Zoning Commissioner

Petitioner F. Buck Submitted by N. B. Commodari
Petitioner's Attorney C. V. McFarland Reviewed by MM

*This is not to be interpreted as acceptance of the Petition for assignment of a hearing date.

C. Victor McFarland, Esquire
920 Frederick Road
Catonsville, Md. 21228

cc. Development Design Group, Ltd.
216 Washington Avenue
Towson, Md. 21204

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your Petition has been received and accepted for filing this 31st day of March, 1981.

William E. Hammond
Zoning Commissioner

Petitioner Alexia Tomassetti, et ux
Petitioner's Attorney C. Victor McFarland, Esq. Reviewed by Nicholas B. Commodari
Nicholas B. Commodari
Chairman, Zoning Plans
Advisory Committee

REFERENCE 2 15 6447

CHESTER COHEN
ATTORNEY AT LAW
DOWNTOWN
1201 FIDELITY BUILDING
210 N. CHARLES STREET
BALTIMORE, MD. 21201
(BY APPOINTMENT)
1301 637-7133

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District 2nd Date of Posting 9-2-81

Posted for: SPECIAL HEARING - APPEAL

Petitioner: ALEXIA TOMASSETTI, et ux

Location of property: S/S ESSEX ROAD, 660' SW OF CAMPFIELD ROAD

Location of Signs: SOUTH SIDE OF ESSEX RD. IN FRONT OF SUBJECT PROPERTY, 4105 ESSEX ROAD

Remarks: S. J. Quate Date of return: 10-2-81

Posted by: S. J. Quate Signature

Number of Signs: 1

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District 3rd Date of Posting May 22 1981

Posted for: SPECIAL HEARING

Petitioner: ALEXIA TOMASSETTI

Location of property: S/S ESSEX ROAD, 600' SW OF CAMPFIELD ROAD

Location of Signs: IN FRONT OF 4105 ESSEX ROAD

Remarks: S. J. Quate Date of return: May 28, 1981

Posted by: S. J. Quate Signature

Number of Signs: 1

2nd District
S/S Essex Rd., 660' SW of
Campfield Rd.
Alexia Tomassetti, et ux
1 SIGN

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 097279

DATE May 8, 1981 ACCOUNT 01-662

AMOUNT \$25.00

RECEIVED FROM Development Design Group Ltd.

FOR filling fee for case no. 81-209-SPH

VALIDATION OR SIGNATURE OF CASHIER

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 101624

DATE 9/18/81 ACCOUNT 01-662

AMOUNT \$35.00

RECEIVED FROM C. Victor McFarland

FOR Appeal fee for Case 81-209-SPH (Tomassetti)

VALIDATION OR SIGNATURE OF CASHIER



Filed May 3 1910
Just. Jm P. Cole, clerk



3/76

VILLA NOVA

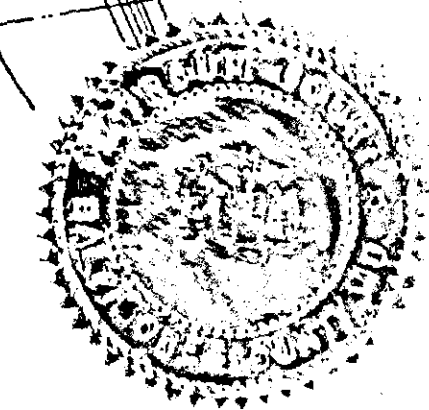
BALTIMORE COUNTY

MARYLAND

SCALE

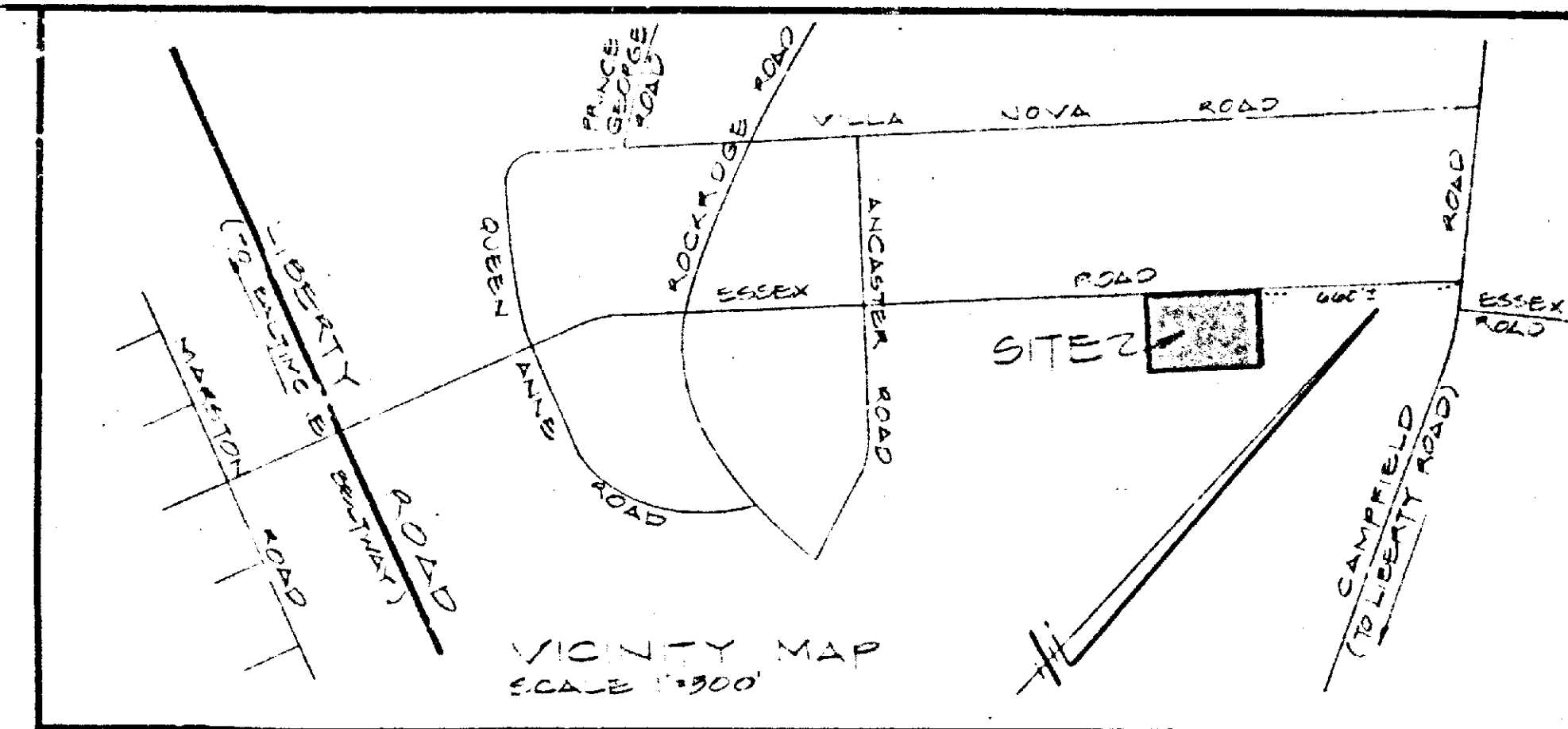
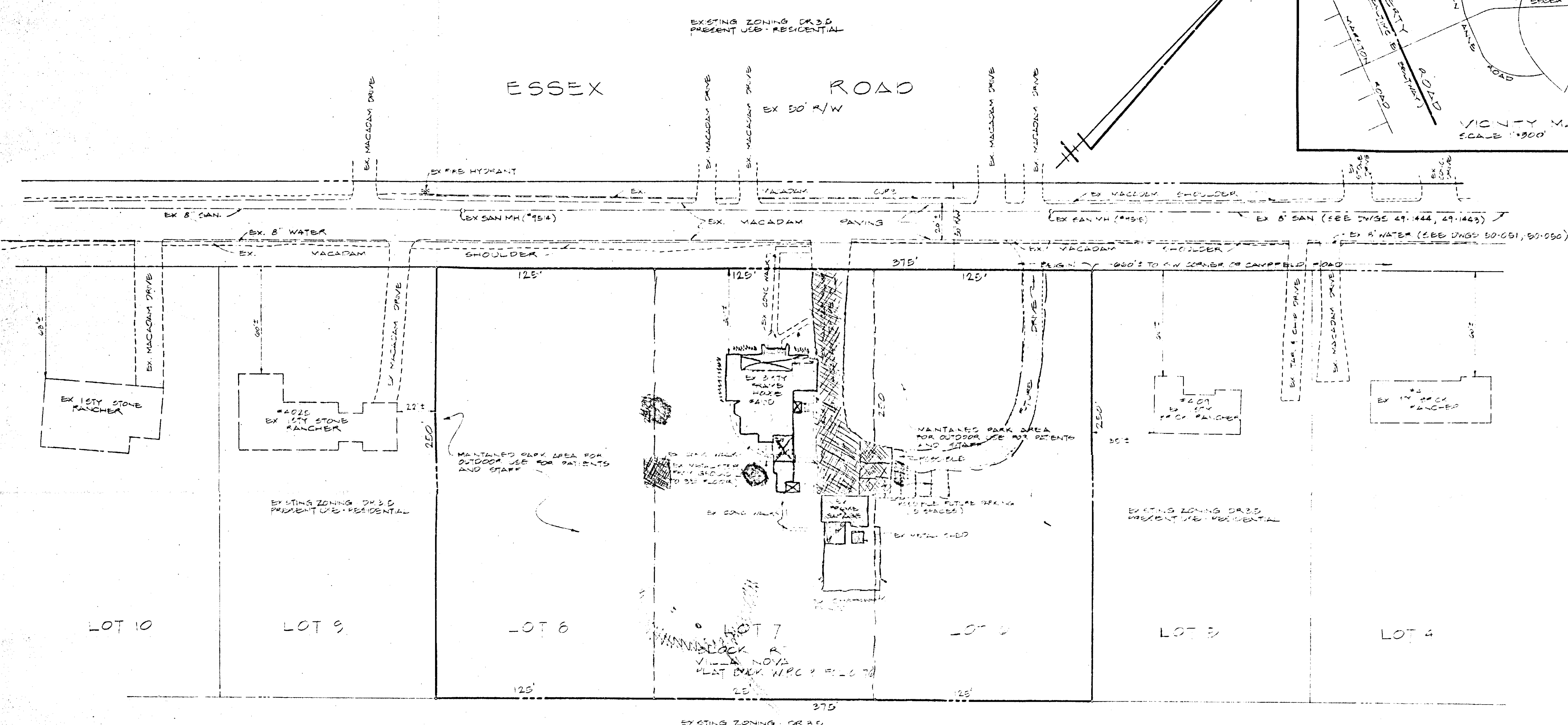
EDWIN C. WOLFF
CIVIL ENGINEER
SEPT, 1909. PHILADELPHIA PA.

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY
STATE OF MARYLAND, COUNTY OF BALTIMORE, SCT.
I, ELMER H. KAHLINE, JR., Clerk of the Circuit Court for Baltimore County
do hereby certify that this is a true copy of the original plat filed in the office
of the Clerk of the Circuit Court for Baltimore County, in Book - W.P.C. No. 3-76
IN TESTIMONY WHEREOF, I have hereunto
hand and affix the seal of said Court
this 3rd day of May 1910



Elmer H. Kahline, Jr.
Clerk of the Circuit Court for
Baltimore County

OFFICE OF APPEALS
RECTOR'S
2



REFERENCE:
DEED FROM KATHERINE A. ROBB TO ALESSIA TOMASETTI & A.
BY DEED DATED DECEMBER 11, 1980 AND RECORDED AMONG
THE LAND RECORDS OF BALTIMORE COUNTY, MARYLAND IN
LIBER E.H.K. JR. 6247 FOLIO 702.

NOTE:
THE OUTLINE DATA SHOWN HEREON IS FROM DEEDS AND PLATS
BY OTHERS AND DOES NOT REPRESENT A FIELD SURVEY.

GENERAL NOTES

- 1) AREA OF TRACT - 2.15 AC±
- 2) EXISTING ZONING - OR S.D.
- 3) EXISTING USE - NURSING HOME
- 4) PROPOSED USE - NURSING HOME
- 5) WATER AND SEWER SERVICE EXISTS AND IS FUNCTIONING TO THE SUBJECT BUILDING.
- 6) NUMBER OF EMPLOYEES (STAFF) - 12 FULL TIME, A PART TIME DISTRIBUTED OVER 24 HOUR OPERATION.
- 7) PRESENT NUMBER OF PATIENTS - 12
- 8) NUMBER OF ROOMS FOR PATIENTS - 10 WITH 3 BEDS AVAILABLE.
- 9) EXISTING BUILDING FLOOR BREAKDOWN AS FOLLOWS:
A) BASEMENT - UTILITY USE ONLY
B) FIRST FLOOR - RECEPTION AREA AND ROOMS FOR PATIENTS
C) SECOND FLOOR - ROOMS FOR PATIENTS
D) THIRD FLOOR - BEDDING QUARTERS OF STAFF SUPERVISOR
- 10) DUE TO THE ON-SITE EXISTENCE OF NUMEROUS TREES AND WELL MAINTAINED LAWN, SCREENING HAS NOT BEEN INDICATED.

PARKING TABULATION

(BASED ON SECTION 409.2 D-2 SPACE REQUIRED FOR EACH 10 BEDS)

15 BEDS AVAILABLE - 2 PARKING SPACES REQUIRED
PARKING SPACES AVAILABLE - 3 OUTSIDE PLUS 2 IN GARAGE (SPACES)
HANDICAPPED OR CHARGE RAMP AVAILABLE AS SHOWN

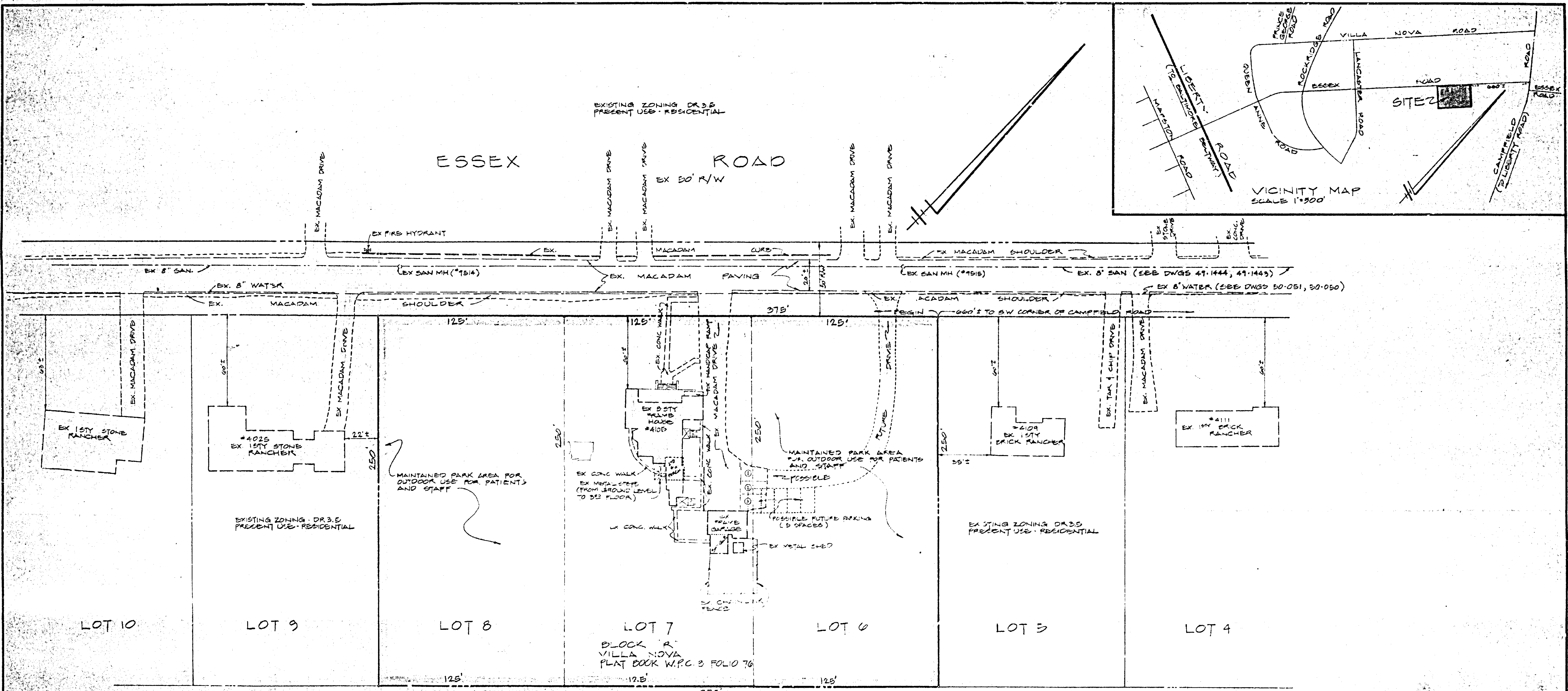
PLAT TO ACCOMPANY ZONING PETITION
FOR SPECIAL HEARING FOR
NONCONFORMING USE FOR NURSING HOME
#4105 ESSEX ROAD
LOTS 6, 7 & 8, BLOCK "R", VILLA NOVA
PLAT BOOK W.P.C. 3 FOLIO 76

BALTIMORE COUNTY, MARYLAND
SCALE 1"=30'
ELECTION DISTRICT N^o 2
DATE: MARCH 5, 1981
REVISED: MARCH 9, 1981

PETITIONER'S
EXHIBIT 4



DEVELOPMENT DESIGN GROUP, LTD
216 WASHINGTON AVENUE
TOWSON, MARYLAND 21204



REFERENCE: DEED FROM KATHERINE A. ROBB TO ALESIA TOMACSETTI et al. BY DEED DATED DECEMBER 11, 1980 AND RECORDED AMONG THE LAND RECORDS OF BALTIMORE COUNTY, MARYLAND IN LIBER. B.M.K.U.M. 0241 FOLIO 702.

NOTE: THE OUTLINE DATA SHOWN HEREON IS FROM DEEDS AND PLATS BY OTHERS AND DOES NOT REPRESENT A FIELD SURVEY.



DEVELOPMENT DESIGN GROUP, LTD
210 WASHINGTON AVENUE
TOWSON, MARYLAND 21204

GENERAL NOTES:

- 1) AREA OF TRACT - 2.13 AC ±
- 2) EXISTING ZONING - DR 3.5
- 3) EXISTING USE - NURSING HOME
- 4) PROPOSED USE - NURSING HOME
- 5) WATER AND SEWER SERVICES EXIST AND IS FUNCTIONING TO THE SUBJECT BUILDING.
- 6) NUMBER OF EMPLOYEES (STAFF) - 12 FULL TIME, 8 PART TIME DISTRIBUTED OVER 24 HOUR OPERATION.
- 7) PRESENT NUMBER OF PATIENTS - 12
- 8) NUMBER OF ROOMS FOR PATIENTS - 10 WITH 13 BEDS AVAILABLE.
- 9) EXISTING BUILDING FLOOR BREAKDOWN AS FOLLOWS:
 - a) BASEMENT - UTILITY USE ONLY
 - b) FIRST FLOOR - RECEPTION AREA AND ROOMS FOR PATIENTS
 - c) SECOND FLOOR - ROOMS FOR PATIENTS
 - d) THIRD FLOOR - RESIDING QUARTERS OF STAFF SUPERVISOR
- 10) DUE TO THE ON-SITE EXISTENCE OF NUMEROUS TREES AND WELL MAINTAINED LAWN, SCREENING HAS NOT BEEN INDICATED.

PARKING TABULATION

(BASED ON SECTION 409.2 b.2 1 SPACE REQUIRED FOR EACH 10 BEDS)

13 BEDS AVAILABLE - 2 PARKING SPACES REQUIRED
PARKING SPACES AVAILABLE - 3 OUTSIDE PLUS 2 IN GARAGE (SPACES)
HANDICAPPED DISCHARGE RAMP AVAILABLE AS SHOWN

PETITIONER'S EXHIBIT

1-25-82-2C

PLAT TO ACCOMPANY ZONING PETITION FOR SPECIAL HEARING FOR NONCONFORMING USE FOR NURSING HOME #4105 ESSEX ROAD LOTS 6, 7 & 8, BLOCK 'R', VILLA NOVA PLAT BOOK W.P.C. 3 FOLIO 76

BALTIMORE COUNTY, MARYLAND
SCALE 1"=20'

ELECTION DISTRICT NO. 2
DATE: MARCH 5, 1981
REVISED - MARCH 9, 1981

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Mr. William Hammond
Zoning Commissioner
Date: May 27, 1981

FROM: Michael S. Planigan, Engineer Associate II

SUBJECT: ZONING COMMENTS

Relative to ZAC meeting of March 31, 1981, the Department of Traffic Engineering has no comments for items #170, #172, 171, 174, 175 and 176.

Michael S. Planigan
Michael S. Planigan
Engineer Associate II

MSF/bza

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Mr. William E. Hammond, Zoning Commissioner
Office of Planning and Zoning
Date: May 18, 1981

FROM: Mr. Ian J. Forrest

SUBJECT: Zoning Variance Items

The Baltimore County Department of Health has reviewed the following zoning variance items, and has no specific comments regarding same:

- Item # 170 - Ellis J. and Doris A. Shifflett, Sr.
- Item # 171 - Alesia Tomassetti and E. Helen Buck
- Item # 174 - Constantine J. Kamnaris, D.D.S.
- Item # 176 - Carolyn A. Carville
- Item # 179 - Jerome J. and Joanne C. Cwash
- Item # 180 - Stanley Penn Children's Trust
- Item # 184 - Evelyn W. and Jimmie C. Sergeant
- Item # 186 - Four Villages Limited Partnership
- Item # 188 - The Four Star Company
- Item # 189 - Albert Raymond Dente
- Item # 190 - Wilbur C. and Susan S. Mossfeld, Jr.
- Item # 191 - Bobby and Georgia B. Sheets
- Item # 193 - Richard Wayne and Kathleen Stansburg
- Item # 198 - Frederick W. and Faye J. Kuehl
- Item # 200 - Richard E. and Marion P. Skymanski
- Item # 201 - Stephen C. and Lynn Roth

LJF/rth/JRF

Ian J. Forrest, Director
BUREAU OF ENVIRONMENTAL SERVICES



BALTIMORE COUNTY
FIRE DEPARTMENT
TOWSON, MARYLAND 21204
829-7310

PAUL H. REINKE
CHIEF

April 21, 1981

Mr. William Hammond
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, Maryland 21204

Attention: Nick Commodari, Chairman
Zoning Plans Advisory Committee

RE: Property Owner: Alesia Tomassetti & E. Helen Buck

Location: S/S Essex Road 660' S/W of Campfield Road

Item No.: 171

Zoning Agenda: Meeting of March 31, 1981

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

() 1. Fire hydrants for the referenced property are required and shall be located at intervals of _____ feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.

() 2. A second means of vehicle access is required for the site.

() 3. The vehicle and end condition shown at _____

EXCEEDS the maximum allowed by the Fire Department.

() 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.

X 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1976 Edition prior to occupancy.

() 6. Site plans are approved, as drawn.

() 7. The Fire Prevention Bureau has no comments, at this time.

REVIEWED: *[Signature]*
Planning Group
Special Inspection Division

Noted and

Approved: *[Signature]*
Fire Prevention Bureau

/mb



BALTIMORE COUNTY
DEPARTMENT OF PERMITS & LICENSES
TOWSON, MARYLAND 21204
494-3010

RED ZALESKI JR.
DIRECTOR

April 6, 1981

Mr. William E. Hammond, Zoning Commissioner
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204

Dear Mr. Hammond:

Comments on Item # 171 Zoning Advisory Committee Meeting, March 31, 1981 are as follows:

Property Owner: Alesia Tomassetti & E. Helen Buck
Location: S/S Essex Road 660' S/W of Campfield Road
Existing Zoning: D.R. 3-5
Proposed Zoning: D.R. 3-5

Special Hearing to approve a non-conforming use for a nursing home.

Acres: 2.15
District: 2nd

The items checked below are applicable:

- A. All structures shall conform to the Baltimore County Building Code 1978, the State of Maryland Code for the Handicapped and Aged; and other applicable Codes.
- B. A building/_____ permit shall be required before beginning construction.
- C. Residential: Three sets of construction drawings are required to file a permit application. Architect/Engineer seal is/are not required.
- D. Commercial: Three sets of construction drawings with a Maryland Registered Architect or Engineer shall be required to file a permit application.
- E. In wood frame construction an exterior wall erected within 5' 0" of an adjacent lot line shall be of one hour fire resistive construction, no openings permitted within 3' 0" of lot line. A minimum 8" masonry firewall is required if construction is on the lot line.
- F. Requested variance conflicts with the Baltimore County Building Code, Section/s _____.
- G. A change of occupancy shall be applied for, along with an alteration permit application, and three required set/s of drawings indicating how the structure will meet the Code requirements for the proposed change. Drawings may require a professional seal.
- H. Before this office can comment on the above structure, please have the owner, thru the services of a Registered in Maryland Architect or Engineer certify to this office, that, the structure for which a proposed change in use is proposed can comply with the height/area requirements of Table 305 and the required construction classification of Table 201.
- X** I. Comments: Although this use would not be permitted in a wood frame structure under today's Code, it is an existing use and appears to have certain safety functions to increase the fire safety of the structure. Section 105.1 as amended would be applicable here. *[Signature]* On the basis of the information provided by the drawing submitted to the office of Planning and Zoning and are not intended to be construed as the full extent of any permit. If desired additional information may be obtained by visiting Room #122 (Plans Review) at 111 West Chesapeake Ave., Towson.

Very truly yours,

Charles E. Burnham
Charles E. Burnham, Chief
Plans Review

CEB:rrj

BALTIMORE COUNTY PUBLIC SCHOOLS

Robert Y. Dubel, Superintendent

Towson, Maryland - 21204

Date: March 26, 1981

Mr. William E. Hammond
Zoning Commissioner
Baltimore County Office Building
1111 West Chesapeake Avenue
Towson, Maryland 21204

Z.A.C. Meeting of: March 31, 1981

RE: Item No: 170, 171, 172, 173, 174, 175, 176
Property Owner:
Location:
Present Zoning:
Proposed Zoning:

District:
No. Acres:

Dear Mr. Hammond:

All of the above have no bearing on student population.

Very truly yours,

Wm. Nick Petrovich
Wm. Nick Petrovich, Assistant
Department of Planning

WNP/bp

C. VICTOR MCFARLAND
ATTORNEY AT LAW
920 FREDERICK ROAD
CATONSVILLE, MARYLAND 21228
(301) 744-0931

September 10, 1981

William E. Hammond,
Zoning Commissioner
Baltimore County Office of
Planning and Zoning
Towson, Maryland 21204

Re: Petition for Special Hearing
Zoning Commissioner
Case No. 81-209-SPH (Item No. 171)

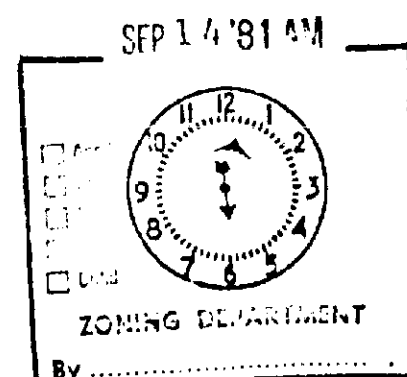
Dear Sir:

Please enter the appeal that is enclosed. Also enclosed is a check in the amount of \$35.00 representing the cost of the appeal, payable to Baltimore County, Md. If additional costs are required, please advise.

Very truly yours,

C. Victor McFarland
C. Victor McFarland

CVMCF:fd
Encls.
cc: Chester Cohen, Esquire
John W. Hessian, III, Esquire
Board of Appeals



BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Mr. W. E. Hammond
Zoning Commissioner
Date: May 25, 1981

FROM: Norman E. Baker, Director
Office of Planning and Zoning

SUBJECT: Petition for Special Hearing

Petition for Special Hearing
South side of Essex Road, 400 Feet Southwest of Campfield Road
Petitioners: Alesia Tomassetti, et al

Revised Petition

HEARING: Thursday, June 3, 1981 (1:30 P.M.)

Since the purpose of this hearing is to determine the legal status of this property as to non-conformance, this office offers no comment.

Norman E. Baker
Norman E. Baker, Director
Office of Planning and Zoning

NEB:JGH:al

William F. Hockett, Esq., Chairman
Board of Appeals
Court House
Towson, Maryland 21204

Re: Hearing Non-Conforming Use
Appeal January 25, 1982 at 10 A.M.
Item No. 171 - 4135 Essex Road
3rd Election District Baltimore County
2.15 Acres of Land
Alesia Tomassetti, et al.,
Petitioners

Dear Mr. Hockett:

I represent the petitioners and request a postponement of the subject case. I have contacted Chester Cohen, Esq., attorney for the protestants and they are opposed to any postponement.

Mrs. Robb, the owner of the property when the non-conforming use began in 1932 or 1933, has recently died. On April 19, 1981, I have contacted her daughter, Catherine Bellow, to see if she would travel from Florida and testify on behalf of the petitioners. She is unwilling to travel, but is willing to have her deposition taken.

I would like to have this postponement to have her deposition taken and present the case as one unit rather than having it continued. Of all the witnesses, Mrs. Bellow is the most important to the petitioners.

Please advise me of the Board's decision.

Very truly yours,

C. Victor McFarland
C. Victor McFarland

CVMCF:fd
cc: Chester Cohen, Esq.

C. VICTOR McFARLAND
ATTORNEY AT LAW
920 FREDERICK ROAD
CATONSVILLE, MARYLAND 21228
(301) 744-0931

January 20, 1982

William T. Hackett, Esq., Chairman
Board of Appeals
Court House
Towson, Maryland 21204

Re: Hearing Non-Conforming Use
Appeal January 28, 1982 at 10 A.M.
Item No. 171 - 4105 Essex Road
3rd Election District Baltimore County
2.15 Acres of Land
Alesia Tomassetti, et al.,
Petitioners

Dear Mr. Hackett:

I represent the petitioners and request a postponement of the subject case. I have contacted Chester Cohen, Esq., attorney for the protestants and they are opposed to any postponement.

Mrs. Robb, the owner of the property when the non-conforming use began in 1932 or 1933, has recently died, on April 19, 1981. I have contacted her daughter, Katherine Dillow, to see if she would travel from Florida and testify on behalf of the Petitioners. She is unwilling to travel, but is willing to have her deposition taken.

I would like to have this postponement to have her deposition taken and present the case as one unit rather than having it continued. Of all the witnesses, Mrs. Dillow is the most important to the petitioners.

Please advise me of the Board's decision.

Very truly yours,

C. Victor McFarland

CVMCF:hts
cc: Chester Cohen, Esq.

CHESTER COHEN
ATTORNEY AT LAW
1201 FIDELITY BUILDING
210 N. CHARLES STREET
BALTIMORE, MARYLAND 21201
(301) 837-7133
625-1211

March 9, 1982

William T. Hackett, Esq., Chairman
Board of Appeals
Court House
Towson, MD 21204

Re: Hearing Non-Conforming Use
Appeal January 28, 1982, at 10 A.M.
Item No. 171-4105 Essex Road
Alesia Tomassetti, et al., Petitioners

Dear Mr. Hackett:

I am writing in response to Victor McFarland's letter of March 3, 1982.

I think in fairness to all concerned, Mrs. Katherine Dillow should come to testify before the Board of Appeals in Towson. We must not lose sight of the fact that Mrs. Dillow is an interested party. She stands to get \$22,500.00 more money from the purchasers if the purchasers are successful in their bid for the Non-Conforming Use. Saying that she does not want to come to Maryland, or that she has no family ties, is totally inappropriate. She is involved in a business deal that requires her presence in Towson and if the business deal is not of sufficient importance to her, then the loss should be hers.

While I sincerely feel that a hearing on Mrs. Dillow should be held in Towson, my clients might possibly consider a deposition in Florida, if the Petitioners would pay all the expenses for the protestants' attorney and one of the protestants. The Villa Nova Community Club has no money to send anyone to Florida, and certainly the Petitioners should not prevail only because they have the money that the protestants do not have.

Again, we feel that in fairness to the protestants, the testimony should be before the Board for all to see her demeanor and to better be able to judge her memory and her honesty.

I find a telephone conference call totally unacceptable for taking the testimony of a witness. It is without legal precedent and would make a farce of giving the protestants their fair and legal day in court.

Mr. McFarland and the petitioners have the burden of proving their claim before the Board. Extending them the courtesy of more time to get Mrs. Dillow in as a witness does not mean that the rights of the protestants should be completely ignored.

Very truly yours,

Chester Cohen

cc: Mrs. Helen Res
C. Victor McFarland, Esq.
Michael J. McMahon, Esq.

C. VICTOR McFARLAND
ATTORNEY AT LAW
920 FREDERICK ROAD
CATONSVILLE, MARYLAND 21228
(301) 744-0931

March 3, 1982

William T. Hackett, Esq., Chairman
Board of Appeals
Court House
Towson, Maryland 21204

Re: Hearing Non-Conforming Use
Appeal January 28, 1982 at 10 A.M.
Item No. 171 - 4105 Essex Road
3rd Election District Baltimore County
2/15 Acres of Land
Alesia Tomassetti, et al.,
Petitioners

Dear Mr. Hackett:

You will recall that the hearing was left open to allow me to produce a witness who lives in the State of Florida, Katherine Dillow, who is the daughter of the late former owner of the Katherine A. Robb Nursing Home. Since the hearing I have corresponded with Mrs. Dillow, received two letters from her and talked to her by telephone on two occasions.

Mrs. Dillow does not want to come to Maryland for the purpose of giving testimony for perhaps an hour or an hour and a half. She has no ties that would tie in to a trip to Maryland with members of her family. She is willing to testify via a conference telephone call, or have her deposition taken in the State of Florida for purposes of producing a transcript to be used in the Board of Appeals hearing.

I am sending a copy of this letter to opposing counsel, and will propose perhaps meeting with you and the other members of the Board on one morning so that the matter can be resolved in a manner that's agreeable to all parties.

Very truly yours,

C. Victor McFarland

CVMCF:hts
cc: Chester Cohen, Esq.
Alesia Buck
Frank Buck
Michael J. McMahon, Asst. County Solicitor
Mrs. Katherine Dillow

C. VICTOR McFARLAND
ATTORNEY AT LAW
920 FREDERICK ROAD
CATONSVILLE, MARYLAND 21228
(301) 744-0931

March 10, 1982

William T. Hackett, Esq., Chairman
Board of Appeals
Court House
Towson, Maryland 21204

Re: Hearing Non-Conforming Use
Appeal January 28, 1982, at 10 A.M.
Item No. 171-4105 Essex Road
Alesia Tomassetti, et al., Petitioners

Dear Mr. Hackett:

I received a copy of Mr. Cohen's letter to you of March 9, 1982.

I have again written Mrs. Dillow and sent her a copy of Mr. Cohen's letter, hoping that that will persuade her to come to Maryland. Mr. Cohen refers in his letter with regard to Mrs. Dillow as an interested party. She has consistently taken the position that all the conditions of the contract have been met and, therefore, my clients are not entitled to any reduction in the purchase price and no claim has been made by my clients for such a reduction. In any event, I am hoping that Mrs. Dillow will be amenable to coming to Maryland rather than having to go through the cost of depositions.

Very truly yours,

C. Victor McFarland

CVMCF:hts
cc: Chester Cohen, Esq.
Michael J. McMahon, Esq.

159 Island Circle
Sarasota, Florida 33581
March 15, 1982

William T. Hackett, Esq., Chairman
Board of Appeals, Court House
Towson, Md. 21204

Re: Hearing Non-Conforming Use
Appeal January 28, 1982 at 10 a.m.
Item No. 171-4105 Essex Road
Alesia Tomassetti, et al.,
Petitioners

Dear Mr. Hackett:

C. Victor McFarland, attorney for the petitioners, sent me a copy of a letter addressed to you. The letter dated March 9, 1982, written by Chester Cohen, representative for the Villa Nova Community Club concerns the above petition and my testimony at a hearing.

One important point should be brought to your attention and be clarified. I am attaching a copy of that portion of the Agreement of Sale for the property at 4105 Essex Road which deals with the zoning and you will be able to judge for yourself.

I have a copy of the results of a previous hearing which states that on the 17th day of August, 1981 the petition for the right to continue from and after the date specified, the existing Nursing Home on Lot 7, was GRANTED. This order came from your office and was signed by you.

My Mother's attorney, John H. Ditto, Jr., informed me that since the Health Department did indeed transfer the license and the Zoning Commission did indeed grant the continuation of the non-conforming use of Lot 7 as a Nursing Home that the "terms of the contract and mortgage remain as is, and there will be no reduction in the mortgage balance", to quote Mr. Ditto. Mr. McFarland also stated the same thing to me verbally. Therefore, Mr. Cohen has misunderstood the terms of the agreement and I do not stand to GAIN anything if this petition is granted.

Frankly, I cannot imagine what I might be able to add to what I have already written to Mr. McFarland. Most of the knowledge that I have can be documented by records in Towson Court House. I can only confirm the fact that we moved to the Essex Road address in 1932; my Mother, Mrs. Katherine Robb, called the Home the Katherine Robb Nursing and Convalescent Home from the start and it has been such from that time to this. Lots 6, 7 and 8, once they were purchased, were always considered as Nursing Home property.

Page 2
Item No. 171
4105 Essex Road

I do not have the full text of the request the petitioners are making as I am not involved in the matter at all, so I cannot make a judgment. My only value to them would be to confirm what is already known and if I were asked whatever questions Mr. Cohen or anyone else asked I could only answer honestly to the best of my knowledge what I know to be the truth.

As to a deposition I would be more than willing to answer any question to which I have knowledge.

I am sure that you will be fair to all parties and rule as you believe will be equitable to both sides. I trust this letter will clarify some things that may be confusing.

Sincerely yours,

Katherine M. Dillow
(Mrs. Walter C.)

Encl.

cc: C. Victor McFarland

CHESTER COHEN
ATTORNEY AT LAW
1201 FIDELITY BUILDING
210 N. CHARLES STREET
BALTIMORE, MARYLAND 21201
(301) 837-7133
625-1211

BRANCH OFFICE
7701 LIBERTY ROAD
BALTIMORE, MARYLAND 21207
(BY APPOINTMENT)

William T. Hackett, Esq., Chairman
Board of Appeals
Court House
Towson, Md. 21204

Re: Hearing Non-Conforming Use
Appeal January 28, 1982, at 10 A.M.
Item No. 171-4105 Essex Road
Alesia Tomassetti, et al., Petitioners

Dear Mr. Hackett:

I vehemently object to the unfair tactics employed in by Mr. McFarland in this matter. He was given every opportunity to have Mrs. Katherine Dillow appear as a witness, but in that she was inconvenient for him, he had her write you a letter that in effect has her testifying without giving us the right of cross-examination.

I can only hope the Board will play fair and consider only the testimony at the hearing.

Very truly yours,

Chester Cohen

cc: Mrs. Helen Res
C. Victor McFarland, Esq.
Michael J. McMahon, Esq.

C. VICTOR McFARLAND
ATTORNEY AT LAW
920 FREDERICK ROAD
CATONSVILLE, MARYLAND 21228
(301) 744-0931

April 8, 1982

William T. Hackett, Esq., Chairman
Board of Appeals
Court House
Towson, Maryland 21204

Re: Hearing Non-Conforming Use
Appeal January 28, 1982
Item No. 171-4105 Essex Road
Alesia Tomassetti, et al.,
Petitioners

Dear Mr. Hackett:

This will confirm our phone conversation wherein you agreed to meet with me, Michael J. McMahon, Assistant County Solicitor, and Chester Cohen, who represents the protestants, on April 13, 1982 at 2:00 p.m.

Very truly yours,

C. Victor McFarland

CVMCF:ll
cc: Chester Cohen, Esquire
Michael J. McMahon, Esquire,
Assistant State's Attorney

C. VICTOR MCFARLAND
ATTORNEY AT LAW
920 FREDERICK ROAD
CATONSVILLE, MARYLAND 21228
(301) 744-0931

April 2, 1982

William T. Hackett, Esquire, Chairman
Board of Appeals
Court House
Towson, Maryland 21204

Re: Hearing Non-Conforming Use
Appeal January 28, 1982
Item No. 171-4105 Essex Road
Alesia Tomassetti, et al.,
Petitioners

Dear Mr. Hackett:

Pursuant to our telephone conversation, I have contacted Chester Cohen, who represents the protestants, and Michael McMahon, Assistant County Solicitor, with regard to meeting one day at your convenience. All three of us would be able to meet you on Tuesday, April 13th. I have tentatively agreed to set it in on our schedules at 2:00 p.m. At this point, we could meet any time that afternoon that would be convenient with you.

I would greatly appreciate your letting us know what date and time is permitted on your schedule.

Very truly yours,

C. Victor McFarland
C. Victor McFarland

CVMcf:fd
cc: Chester Cohen, Esquire
Michael J. McMahon, Esquire

C. VICTOR MCFARLAND
ATTORNEY AT LAW
920 FREDERICK ROAD
CATONSVILLE, MARYLAND 21228
(301) 744-0931

April 1, 1982

Chester Cohen, Esquire
1210 Fidelity Building
Charles & Lexington Streets
Baltimore, Maryland 21201

Re: Katherine A. Robb Nursing Home
Non-Conforming Use Hearing-
Board of Appeals

Dear Mr. Cohen:

Enclosed please find a photocopy of the original Amended Proffer of Testimony of Katherine Robb Dillow, that has been notarized and has an affidavit attached.

I am still unable to get Mrs. Robb to come to Maryland and testify.

Please review the Amended Proffer and, if it is still unacceptable, please let me know so that I can make arrangements to meet with Mr. William T. Hackett, Chairman of the Board of Appeals, with counsel, in order that Mrs. Dillow's deposition can be taken in Florida.

I am sending Mr. Hackett a copy of this letter, but not a copy of the Proffer.

Please advise me at your earliest convenience.

Very truly yours,

C. Victor McFarland
C. Victor McFarland

CVMcf:fd
Enc.

cc: Michael J. McMahon, Esquire
William T. Hackett, Esq., Chairman,
Board of Appeals

Item No. 171-4105 Essex Road, Hearing date
January 29, 1982.

494-3180

County Board of Appeals
Room 219, Court House
Towson, Maryland 21204

June 9, 1982

C. Victor McFarland, Esq.
920 Frederick Rd.
Catonville, Md. 21228

Dear Mr. McFarland:

Re: Case No. 81-209-SPH
Alesia Tomassetti, et al

Enclosed herewith is a copy of the Opinion and Order passed today by the County Board of Appeals in the above entitled case.

Very truly yours,

John Holmen
John Holmen, Secretary

Encl.

cc: Alesia Tomassetti
Frank and Helen Buck
Helen Rea
Ms. Jo Fisher
Chester Cohen, Esq.
J. Dyer
W. Hammond
N. Gerber
J. Howell
T. J. Bollinger, Esq.

THE VILLA NOVA COMMUNITY CLUB
BALTIMORE, MARYLAND 21207

7004 Lancaster Rd.
Baltimore, Md. 21207

June 8, 1981

Zoning Commissioner
Baltimore County Maryland
Dear Sir:

Re: 81-209-SPH
Hearing, Tuesday June 9, 1981

The Executive Board of the Villa Nova Community Club, meeting on the evening of May 2, 1981, voted unanimously to oppose the designation of Lots #6 and #8 Block R of the Villa Nova Plat as a non-conforming use. It does not oppose that designation for Lot #7 Block R and the nursing home thereon, known as the Katherine Robb Nursing Home, 5104 Essex Rd.

There is ample space on the above-mentioned Lot #7 for expansion by 25% of the present ground floor area (the amount allowed in a non-conforming use). Petitioner would derive no benefit from having all three lots designated as a non-conforming use. Therefore we feel that Lots #6 and #8 should retain their present zoning classification of R 3.5 without non-conforming use.

Villa Nova is a community of 350 homes, on wooded lots with tree-shaded streets. Essex Road, where the nursing home is located, has large lots with well-kept homes. The nursing home as it now exists is compatible with the character of the neighborhood. Any ambitious plans to expand and further institutionalize the property would seriously damage the surrounding development.

Respectfully submitted:
Helen M. Rea
Helen M. Rea
Pres. Villa Nova Community Club

**PETITIONER'S
EXHIBIT**

C. VICTOR MCFARLAND
ATTORNEY AT LAW
920 FREDERICK ROAD
CATONSVILLE, MARYLAND 21228
(301) 744-0931

June 18, 1981

William E. Hammond, Esquire
Zoning Commissioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: Item No. 171
Petitioner: Alesia Tomassetti, et al.
Special Hearing Petition

Dear Mr. Hammond:

Pursuant to my request to research the question of "Incidental Use", I have been unable to find a case close enough to the case at bar that would shed light on what the Court's position would be if this case ultimately went to one of the appellate courts. I have a feeling that the Court would wind up saying that each case must be judged on its own individual merit, because it does involve a factual situation and determination. I was mistaken, however, in that I do not think the case involves an "Incidental Use".

At the hearing the Petitioner produced witnesses who testified that the property, all three lots, were used as a nursing home and nursing home grounds. The middle lot contained the nursing home and the lots on either side of the nursing home were known as The Katherine A. Robb Nursing Home. Mrs. Robb assembled the lots in 1941, 1951 and 1965. The lot acquired in 1965 had been owned by Mrs. Robb's daughter and husband since 1946. There was ample testimony that the two lots on either side had been used by the patients of the nursing home prior to 1941 and 1953 as grounds of the nursing home. Flower beds were planted, parties were held and other entertainment, in addition to the use of the park-like area for patient strolling. Testimony from both the Protestants' and Petitioner's witnesses proved that the property had been used as a nursing home since well before 1941, and continuously since that time.

The Protestants have, in the face of testimony, tried to limit the nursing home grounds to the area of Lot No. 7. Mr. Tatelbaum, an adjacent property owner, testified that Mrs. Robb told him that the lots served as a buffer. He admitted, on cross examination, that the nursing home grounds constituted a buffer for both the residents of the neighborhood and patients of the nursing home. Mr. Prevost:

William E. Hammond, Esquire

page 2

June 18, 1981

testified for the Petitioner that Mrs. Robb conducted an unobtrusive nursing home operation on the property. Other witnesses for both sides testified that a person travelling in the neighborhood would not know it was a nursing home.

I do not believe that the testimony of the Petitioner's disinterested witnesses and the Protestants' witnesses were in conflict. I do not believe that the testimony from both sides involve a matter of credibility. I see no conflict between the testimony of the Petitioner's witnesses who were personally knowledgeable about the operation of the nursing home concerning the use of the grounds and the Protestants' witnesses who denied seeing those uses. I believe this easily explained that the members of the neighborhood, because of Mrs. Robb's unobtrusive use of the ground and its parklike appearance, had no reason to make observations of the nursing home area when activities of the nursing home were being carried on. When the witnesses were called upon, they simply did not recall these events because they had no significance at the time they were held to the residents of the neighborhood. Therefore, none of the witnesses were less than candid. If this were not true, then some of the witnesses were not telling the full truth.

The applicant proved a valid, existing non-conforming use according to the facts developed in the case for all three lots. The fears of the Protestants' concerning future expansion are not based on the reality of the situation and limitations imposed on non-conforming use by the regulations. The granting of a non-conforming use to the Petitioner on all of the grounds of the nursing home would not allow the Petitioner any greater rights than she already has, except for the remotest possibility that some impractical building consisting of twenty-five percent of the ground-floor area would be built on Lot No. 6 or 8 as opposed to building it against the existing building.

We believe that the grounds of the nursing home are as complimentary and necessary as grounds are to hospitals and other institutions, whether it is Bonnie Blinn, Mt. Wilson, The Augsburg Home, or The Greater Baltimore Medical Center.

Very truly yours,

C. Victor McFarland
C. Victor McFarland,
Attorney for Petitioner

CVMcf:jfm
cc: Chester Cohen, Esquire
Alesia Tomassetti
Mr. & Mrs. Frank E. Buck



Liberty Road Community Council, Inc.

1407 Dorman Drive Baltimore, Maryland 21208 484 9287

June 26, 1981

Mr. William Hamman
Zoning Commissioner
Towson, Md 21207

Dear Mr. Hamman,

The Liberty Road Community Council would like to express its support of the Villa Nova Community Club in its opposition to the requested non-conforming use at the Robb Nursing Home on Essex Road. We believe that the best interest of the community will be served if non-conforming use is established only on lot seven of the Villa Nova plat.

Sincerely,

Jo Fisher
Jo Fisher, President

C. Victor McFarland, Esquire
920 Frederick Road
Catonville, Maryland 21228

August 17, 1981

RE: Petition for Special Hearing
S/S of Essex Road, 660' SW of Camp-
field Road - 2nd Election District
Alesia Tomassetti, et al - Petitioners
NO. 81-209-SPH (Item No. 171)

Dear Mr. McFarland:

I have this date passed my Order in the above referenced matter in accordance with the attached.

Very truly yours,

WILLIAM E. HAMMOND
Zoning Commissioner

WEH/srl

Attachments

cc: Ms. Helen M. Rea, President
Villa Nova Community Club
7004 Lancaster Road
Baltimore, Maryland 21207

Mr. Chester Cohen
7501 Liberty Road
Baltimore, Maryland 21207

John V. Hessian, III, Esquire
People's Counsel

C. VICTOR MCFARLAND
ATTORNEY AT LAW
920 FREDERICK ROAD
CATONSVILLE, MARYLAND 21228
(301) 744-0931

September 10, 1981

William E. Hammond,
Zoning Commissioner
Baltimore County Office of
Planning and Zoning
Towson, Maryland 21204

Re: Petition for Special Hearing
Zoning Commissioner
Case No. 81-209-SPH (Item No. 171)

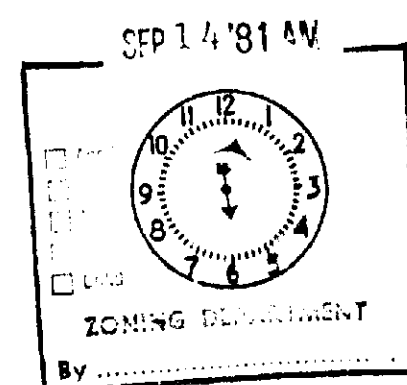
Dear Sir:

Please enter the appeal that is enclosed. Also enclosed is a check in the amount of \$35.00 representing the cost of the appeal, payable to Baltimore County, Md. If additional costs are required, please advise.

Very truly yours,

C. Victor McFarland
C. Victor McFarland

CVMCF:fd
Encls.
cc: Chester Cohen, Esquire
John W. Hessian, III, Esquire
Board of Appeals



September 16, 1981

Chester Cohen, Esquire
7501 Liberty Road
Baltimore, Maryland 21207

RE: Petition for Special Hearing
S/o of Essex Road, 660' SW of Campfield Road
Alexia Tomassetti, et al - Petitioners
Case #81-209-SPH (Item #171)

Dear Mr. Cohen:

Please be advised that an Appeal has been filed by C. Victor McFarland, Attorney for the Petitioners, dated September 10, 1981, from the decision rendered by the Zoning Commissioner of Baltimore County in the above-referenced matter.

You will be notified of the date and time of the appeal hearing when it is scheduled by the County Board of Appeals.

Very truly yours,

William E. Hammond
William E. Hammond
Zoning Commissioner

WEH:klr

cc: John W. Hessian, III, Esquire
People's Counsel

Ms. Helen M. Rea, President
Villa Nova Community Club
7004 Lancaster Road
Baltimore, Maryland 21207

Ms. Jo Fisher, President
Liberty Road Community Council, Inc.
7407 Dorman Drive
Baltimore, Maryland 21208

Alexia Tomassetti, et al
c/o C. Victor McFarland, Esquire
920 Frederick Road
Catonville, MD 21228

May 11, 1981

NOTICE OF HEARING

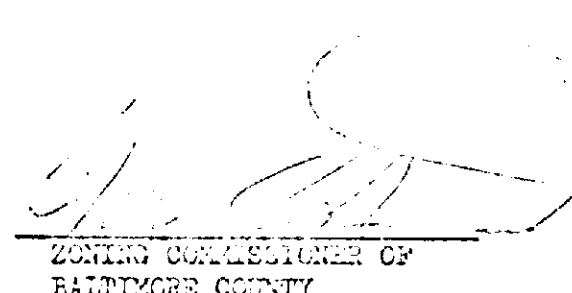
RE: Petition for Special Hearing
S/S Essex Road, 660' SW Campfield Rd.
Case #81-209-SPH

TIME: 1:30 P.M.

DATE: Tuesday, June 9, 1981

PLACE: ROOM 106 COUNTY OFFICE BUILDING, 111 W. CHESAPEAKE AVENUE,

TOWSON, MARYLAND



BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-3353

May 28, 1981

WILLIAM E. HAMMOND
ZONING COMMISSIONER

C. Victor McFarland, Esquire
920 Frederick Road
Baltimore, Maryland 21228

RE: Petition for Special Hearing
S/S Essex Rd., 660' SW of Campfield Rd.
Alexia Tomassetti, et al - Petitioners
Case No. 81-209-SPH

Dear Mr. McFarland:

This is to advise you that \$59.75 is due for advertising and posting of the above property.

Please make check payable to Baltimore County, Maryland, and remit to Karen Riegel, Room 113, County Office Building, Towson, Maryland 21204 before the hearing.

Very truly yours,

William E. Hammond
WILLIAM E. HAMMOND
Zoning Commissioner

WEH:klr

PETITION FOR SPECIAL HEARING
2nd DISTRICT

ZONING: Petition for Special Hearing

LOCATION: South side of Essex Road, 660 feet Southwest of Campfield Road.

DATE & TIME: Tuesday, June 9, 1981 at 1:30 P.M.

PUBLIC HEARING: Room 106, County Office Building, 111 West Chesapeake Avenue, Towson, Maryland

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing:

Petition for Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve a non-conforming use as a nursing home.

All that parcel of land in the Second District of Baltimore County.

Being the property of Alexia Tomassetti, et al, as shown on plat plan filed with the Zoning Department.

Hearing Date: Tuesday, June 9, 1981 at 1:30 P.M.
Public Hearing: Room 106 County Office Building, 111 West Chesapeake Avenue, Towson, Maryland

BY ORDER OF
WILLIAM E. HAMMOND
ZONING COMMISSIONER
OF BALTIMORE COUNTY

Development Design Group, Ltd.

Richard B. Williams, President
Wayne E. Mosenholder
Land Surveyor

(301) 828-0727

March 5, 1981

DESCRIPTION TO ACCOMPANY ZONING PETITION
FOR SPECIAL HEARING FOR NON-CONFORMING
USE FOR NURSING HOME # 4105 ESSEX ROAD

Beginning for the same at a point on the south side of Essex Road, said point being distant southwesterly 660 feet, more or less, from the southeast corner of said Essex Road and Campfield Road, being known and designated as Lot numbers 6, 7 and 8, Block R on a plat entitled "Villa Nova" dated September, 1909 and recorded among the Land Records of Baltimore County, Maryland in plat book W.P.C. 3, folio 76.
Containing 2.15 acres of land, more or less.



494-3150

County Board of Appeals
Room 219, Court House
Towson, Maryland 21204

Dec. 9, 1981

NOTICE OF ASSIGNMENT

IN WITNESS WHEREOF, the parties executed this Agreement on the day and year first above written.

CASE NO. 81-209-SPH ALEXIA TOMASSETTI, et al
S/S Essex Rd., 660' SW of Campfield Rd.
2nd District
SPH-Non-conforming use as a nursing home;
not to be further expanded or enlarged
8/17/81 - Z.C. GRANTED special hearing,
but may not be expanded or enlarged

ASSIGNED FOR: THURSDAY, JAN. 28, 1982, at 10 a.m.

cc: C. Victor McFarland, Esq. Counsel for Petitioners

Ms. Helen Rea Protestant
Ms. Jo Fisher Protestant
Chester Cohen, Esq. Counsel for Protestant
Alexia Tomassetti Petitioner
Frank & Helen Buck "
J. E. Dyer
W. E. Hammond
N. E. Geiber
J. Howell
J. Hossie, Esq.
Thomas J. Bollinger, Esq. Officer of Law

Justices, etc.

10. The short settlement period did not make allowance for the Purchasers to obtain a ruling by the zoning authorities of Baltimore County as to the premises non-conforming use and, therefore, the Seller agrees that in the event the property is determined not to be a valid non-conforming use, or the business sold herein cannot be operated by the Purchasers as a nursing home because of the requirements of the Department of Health and Mental Hygiene, the Seller shall reduce the mortgage by the sum of twenty-two thousand five hundred dollars (\$22,500.00).

11. It is understood and agreed that the buyers shall diligently pursue the resolution of the two contingencies (a) Zoning and (b) waiver by the Department of Health and Mental Hygiene of requirements of elevator, ramp, etc.

a. That the hearing before the Zoning Commission must be held before the 30th day of April 1981 bar any postponement, delay or appeal beyond the buyers' control.

b. The buyers agree to keep the Seller apprised of the developments toward resolving the two contingencies.

c. The buyers shall file a petition for a hearing on or before January 15, 1981.

12. This agreement herein contained shall be binding on the parties, their heirs, personal representatives and assigns.

13. The terms and conditions of this agreement shall not merge with the execution of the deed or bill of sale because of the provisions of paragraph 10 of this agreement.

IN WITNESS WHEREOF, the parties executed this Agreement on the day and year first above written.

WITNESS:

Katherine A. Reed
KATHERINE A. REED, Seller
Alexia Tomassetti
ALEXIA TOMASSETTI, Purchaser
Frank E. Buck
FRANK E. BUCK, Purchaser
Helen Buck
HELEN BUCK, Purchaser